

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

In the Matter of:)	
)	
Request for Waivers)	
)	CC Docket No. 02-6
by)	
)	
Syracuse City School District)	
Syracuse NY)	

TO: Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

Syracuse City School District ("SCSD") respectfully requests that the Federal Communications Commission ("FCC" or "Commission") grant it two Waivers relative to the Universal Service Administrative Company ("USAC") denial of two Invoice Extension Requests. The Requests for Waiver are made pursuant to 54.719 through 54.723 of the Commission's rules.¹

Billed Entity Number: 124483

(1) FY2010 FCC Form 471 Application Number:	738688
Funding Request Number Appealed:	2050678
Date of Administrator's Decision of Appeal Letter:	November 21, 2014
Service Provider:	IBM Global Services
SPIN:	143005607

¹ 47 C.F.R. §§ 54.719–54.723
Syracuse City School District FY2010 & FY2011 Request for Waivers re invoice extension denials

(2) FY2011 FCC Form 471 Application Number: 776972
Funding Request Number Appealed: 2228708
Date of Administrator's Decision on Extension Letter: October 28, 2014
Service Provider: IBM Global Services
SPIN: 143005607

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USAC'S REASONS FOR INVOICE EXTENSION DENIALS

FY2010 FRN 2050678

On July 31, 2014 Syracuse City School District ("SCSD"), by and through its duly authorized E-rate consultant, Educational Funding Group, Inc., ("EFG") (CRN 16043587) submitted a an Invoice Extension Request for FY 2010 FRN 2050678. The request was denied by USAC in the Administrator's Decision on Invoice Extension dated September 5, 2014 stating: "Current deadline guidelines and procedures do not allow approval for the reason submitted." An appeal was filed with USAC, which was denied on November 21, 2014, stating that SCSD's appeal had not presented conditions that met the criteria for obtaining an extension.

FY2011 FRN 2228708

On September 18, 2014 SCSD submitted an Invoice Extension Request for FY2011 FRN 2228708. The request was denied by USAC in the Administrator's Decision on Invoice Extension dated October 28, 2014 stating: "Current deadline guidelines and procedures do not allow approval for the reason submitted." No appeal was filed with USAC; instead SCSD is requesting a Waiver directly from the FCC.

STATEMENT IN SUPPORT OF REQUEST FOR WAIVER FOR BOTH FRNS

Both FRN 2050678 and FRN 2228708 were funded for Basic Maintenance of Internal Connections, which services were performed by IBM Global Services during the 7/1/2010-6/30/2011 and 7/1/2011-6/30/2012 funding years. For both years, SCSD paid IBM based on the invoices it received; however, these invoices lacked sufficient detail to ensure that only costs for eligible items at eligible locations would be included in SCSD's BEARs. A few months after the 2010-2011 funding year ended, EFG reached out to IBM requesting the necessary detail for the basic maintenance services that had been performed. Only at that time did IBM inform EFG that the project manager for the SCSD project had unexpectedly passed away earlier in 2011 and that no one at IBM was able to locate the records necessary to reconstruct the work that had actually been performed and the locations where it was done.

After many months IBM finally provided copies of the invoices and when they were all finally received, an analysis disclosed that they included work performed at locations that lay outside the scope of FRN 2050678. The invoices were also missing considerable amounts of essential detail and also contained mis-information. Due to the magnitude of the project and the

amount of money involved, the need for the missing information and reconciliation of the incorrect information is essential to the preparation of an accurate BEAR for submission to USAC.

The scenario for FRN 2228708 was pretty much the same as that for FRN 2050678. The invoices from which SCSD paid were again sufficient for its purposes but were insufficient in detail and accuracy to prepare an accurate BEAR.

Despite SCSD and EFG diligently continuing its pursuits to obtain the information and documentation from IBM, nothing additional has been forthcoming. The process has been further hampered by the departure of subsequent IBM project managers and other IBM personnel. This has resulted in no one remaining at IBM having first-hand knowledge or ready access to the paperwork. There has been no apparent effort by IBM to locate or reconstruct the records, which they are, by E-rate rules, obligated to keep and there is little incentive for them to do so since they were already paid in full. Additionally, over the past few years, SCSD also had major turnover of school personnel. Thus, those currently at the district were not involved with E-rate during FY2010 and 2011. This means that no one at SCSD has first hand knowledge of the work that was performed. IBM's failure to provide the requisite documentation has left SCSD in an untenable situation *and* out of pocket \$585,529.67 for FRN 2050678 and \$727,723.92 for FRN 2228708, which, needless to say, has created significant financial hardship for the district.

Since one of the reasons listed on the USAC website for which an invoice extension may be requested are situations where documentation requirements necessitate third-party contact or certification, SCSD fails to comprehend why the invoice extension requests were denied "because current guidelines and procedures do not allow approval for the reasons submitted" when documentation requirements necessitating third-party contact or certification is *exactly* what SCSD needed to prepare an accurate BEAR. Since the district paid IBM based on the invoices it received,

which were sufficient for internal purposes, but insufficient in detail to use to prepare a BEAR and remain in compliance with E-rate program rules, USAC's denial of the invoice extension requests seems a very harsh penalty for SCSD who acted in good faith and sought to do everything right in trying to meet USAC and FCC requirements and is now out of pocket more than \$1.3 million dollars.

In the situation described above it is evident that SCSD is, and always has been, completely dependent on IBM to provide them with the detailed documentation necessary to assure program compliance, yet neither USAC nor the FCC provides any guidance or recourse for an applicant who paid in good faith but cannot get the vendor to supply them with the detailed paperwork necessary to obtain reimbursement. Denying an invoice extension under these circumstances is not only harsh, but is financially detrimental to the district that made its best efforts to comply with all program rules in a timely manner.

Since the filing of the Invoice Extension Request on July 31, 2014 for FRN 2050678 preceded the issuance of the E-Rate Modernization Order, the extension request submitted on July 31, 2014 should be determined by the standards and procedures in effect both for the 2010 funding year and at the time it was filed, not any changes that took place in subsequent months. Although the Invoice Extension Request for FRN 2228708 wasn't filed until September 18, 2014, it too should be determined by the standards and procedures in effect for its 2011 funding year. To have new rules and procedures apply retroactively, without any advance notification is inconsistent with the Commission's prior actions which have recognized that an application should be judged by the rules and procedures in effect at that time.²

² See *Ysleta Independent School District*, DA 12-1797

SCSD believes the underlying facts, the significant financial hardship SCSD will continue to endure if not permitted invoice extensions and the extensive good faith efforts SCSD has made in trying to get IBM to provide the necessary information constitute special circumstances sufficient for the Commission to grant SCSD waivers of the invoicing deadlines for FRN 2050678 and FRN 2228708.

CONCLUSION

Throughout its application process, SCSD demonstrated compliance with E-rate program rules and regulations. It followed all core E-rate program requirements and intended no fraud, abuse or waste of E-rate funds. To deny SCSD invoice extensions for FRNs 2050678 and 2228708 is against the public interest and will create very significant financial hardship for the school district.

Therefore, for the reasons contained herein, Syracuse City School District, by and through its duly authorized E-rate consultant, Educational Funding Group, Inc., respectfully requests that the Commission:

1. Grant it's Request for Waivers of the invoice extension deadlines for FRNs 2050678 and 2228708;
2. Issue an Order granting the invoice extensions;
3. Issue guidance as to how to get IBM to provide the documentation necessary for SCSD to prepare its BEAR; and
4. Waive any procedural rules necessary to effectuate the Commission's resultant Orders.

Respectfully submitted,

/s/Michele Scaduto

Michele Scaduto